



INDEPENDENT OIL MARKETERS ASSOCIATION OF NEW ENGLAND

P.O. Box 1827 • N. Falmouth, MA 02556 Tel: 508-548-7627 Fax : 508-355-8952
January 11, 2011 E-mail: romano@iomane.com

Mr. James C. Colman, Assistant Commissioner
Bureau of Waste Prevention
Commonwealth of Massachusetts
Department of Environmental Protection
One Winter Street,
Boston, MA 02108

RE: MassDEP Proposed Regulations Operator Training

Dear Mr. Colman:

Thank you, for the opportunity to review MassDEP's Proposed Regulations for Operator Training. Based on our member review, we would like to offer the following comments:

1) IOMA recommends that DEP revisit the touchstones it used for developing the current approach and subsequent requirements for Class A and B Operator certification. Class A and B operators are very different from Class C operators. Specifically, IOMA recommends that Class A and B Operators be tested once and if they pass the exam, there should be no ongoing obligation to re-take the exam, except for re-instatement after a disciplinary action or other cause leading to revocation.

The draft rules state that Class A and B operators must undergo training and pass a DEP sponsored exam in order to be certified as a Class A or B Operator, and then every three years thereafter they need to re-take and pass another exam. It seems silly to require highly experienced professionals to retake an exam covering the same content every three years. It is wasteful of resources to pay for exam developers to create multiple exams every three years, when 99% of its content will be nothing new. Yet after the test, the Class A or B operator will become increasingly knowledgeable, not from training or exam taking, but from continuing on the job experience. An alternate approach needs to be chosen.

This approach is also unnecessarily restrictive and is inconsistent with how other professional certifications operate in Massachusetts. Many other Massachusetts certification based programs that DEP could use as models have a similar, if not a greater role in preventing releases, and protecting public health and the environment than Certified Operators. Specifically, if a person takes the Licensed Site Professional (LSP) exam and passes it and then goes on to demonstrate that they meet the all requirements to become an LSP; they are not

required to retake the exam, ever, barring a disciplinary action. The same is true for admission to the Massachusetts Bar, and for Massachusetts certified Professional Engineers. IOMA believes DEP is sorely underestimating the level of professional experience and knowledge that a Class A or B Operator will possess. Within a company, an employee who is designated as the Level A or B Operator is more likely than not to be a company official whom is career oriented and serving in a professional capacity. It is unfair to assume or characterize that a Class A or B operator as being someone who would be considered transient, inexperienced, and unreliable. Granted, greater turnover does exist within the universe of Class C operators, however, it is nowhere near that level for Class A and B Operators. The level of knowledge, experience and competency that is required for A and B Operators of UST systems is earned through years of working in the industry, and not necessarily something that can be obtained solely from a training course. IOMA envisions that for many single or small retail service operations, private consultants hired by the owners and operators of the UST system will fill the role of Class A and B Operators.

2) IOMA also recommends that MassDEP decouple the training and examination requirements necessary for operator certification for Class A and B Operators, and base its Class A and B Operator certification solely on obtaining passing grade on an examination. According to EPA's state grant implementation guidelines, an examination alone for operator certification is listed as an authorized approach. MassDEP appears to be proposing a more stringent approach by requiring both, when it is not necessary given the level of experience necessary for Class A or B certification. Also, IOMA is further confused over MassDEP's insistence on having both requirements when it does not want to play a role in any sort of training programs for operator certification because it may be too burdensome. A compromise approach would be to expand the definition of "training" to capture a person's work experience and allow it to be classified as "on-the-job" training. This would avoid wasting time and scarce resources on training programs that in essence, train the experts.

3) IOMA suggests that MassDEP should revisit its decision to not take on a training role for Class A and B Operator Certification. UST systems and technologies are not a rapidly evolving science with new trends, new technologies or toxicity changes that occur every six months. Rather, the industry can be characterized as being stable from an equipment and technique standpoint, and where the UST's remain in service for decades. Not a lot of new changes happen in the industry; rather the regulations are more prone to change than industry equipment or technique. An approach that MassDEP could take in conjunction with the proposed "one-time-exam" approach is to hold required training sessions or issue fact sheets for all A and B Operators on any new regulations. This is customary practice by MassDEP anyway. That could suffice as adequate training for Class A and B operators on any new regulations. If any new issues arise outside of any regulatory reforms, which too could be addressed in the same forum or format. IOMA would support MassDEP in these

efforts and would like to discuss further how such a joint approach could work.


4) IOMA recommends that MassDEP should pursue a state sponsored exam as the primary route for certification of Class A and B Operators. However, IOMA also believes that the MassDEP should retain its authority to approve alternate training, exam and certification programs prepared and implemented by private parties, other states, or by a UST owner or operator who have (XX) number of stations, and where economies of scale and efficiencies can be obtained that would otherwise be lost and without sacrificing the integrity of the operator certification process. An approach modeled after the Environmental Results Programs should be considered.

5) IOMA believes for Class C Operators the record keeping requirements are overly burdensome, and are in need of paper-work relief or alternative reporting formats. For Class A and B Operators it is understandable to know who they are, and track their examination grades. However, IOMA questions the need for tracking every Class C Operator and dates of company training and/or re-training. Alternate approaches need to be considered.

6) IOMA recommends that the Class C Operator re-training requirement not be triggered when temporary re-assignment at another UST system is needed to cover absenteeism due to illness, resignation, or termination of an employee. Rather, all UST System Owners and Operators should be required to have a site plan and checklist present for review by the temporarily re-assigned Class C Operator. This will allow the newly assigned operator to instantly know the exact locations of critical UST system components at the new facility. As proposed this requirement would routinely create a significant hardship at every retail service station in the Commonwealth.

Accordingly, I have attached comments in redline and strikeout to the aforementioned proposed Operator Training regulations. Please call at any time should you have questions.

Thanks,



Peter Romano
President
IOMA

